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OFFICE OF PETITIONS

Applicant: Nunoya et al.
Appl. No.: 10/527,355
International Filing Date: March 30, 2004
Title: OPTICAL SEMICONDUCTOR DEVICE AND OPTICAL SEMICONDUCTOR
INTEGRATED CIRCUIT
Attorney Docket No.: 14321.67
Pub. No.: US 2006/0050752 A1
Pub. Date: March 9, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 9, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, on the front page of the publication as the title of the invention "OPTICAL SEMICONDUCTOR DEVICE AND OPTICAL SEMICONDUCTOR INTEGRATED CIRCUIT" is misprinted as OPTICAL SEMICONDUCTOR DEVICE AND OPTICAL SEMICONDUCTOR IN TEGRATED CIRCUIT".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The error noted by requestor on the front page of the publication wherein "INTEGRATED" is misprinted as "IN TEGRATED" is not a material Office error under 37 CFR 1.221. The error noted by requestor is a minor typographical error, which does not affect the public's ability to

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On November 16, 2005, a Filing Receipt was mailed by the Office, which listed the title as published. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

A handwritten signature in black ink, appearing to read 'Mark Polutta', with a long horizontal line extending to the right.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy